Magistrates' Courts Judiciary

Republic of South Africa

JOHANNESBURG

DIRECTIVES FOR LOWER COURTS REGION 5 GAUTENG AS ISSUED BY THE CLUSTER HEAD

The following directives will apply with immediate effect until the 17 April 2020.

- Restriction of access to the courts must take place by limiting the number of persons entering the court building.
- Only accused, witnesses, litigants cited on civil and family court documents and attorneys can enter the court buildings, no spectators, except in cases where the accused is assisted by a parent or a guardian.
- People must observe a 1 meter (minimum) distancing from each other – this is also applicable to court staff
- Attorneys need not introduce themselves in the Magistrates chambers. Introductions can be done in court.
- No member of the public may enter a Magistrates office. Any complaints may be e-mailed to the Senior Magistrate or may, when appropriate, be addressed in Court.
- Magistrates must not compromise their health in any way and must take all reasonable precautions to keep themselves safe whilst executing their constitutionally obligated duties.

- During the period 30 March 2020 to 17 April 2020 courts will be operating on skeleton staff. The list of magistrates on duty during this period will be made available to all stakeholders and a copy will be kept with the security at the main entrance.

CRIMINAL COURTS:

- The courts equipped with the AVR machines should use them as far as possible to deal with cases of accused persons in custody.
- In the absence of AVR machines Magistrates must consider due to the special circumstances to sign J7 in absentia for accused persons in matters arranged for continuance with their legal representatives. If Magistrates are unwilling to do so they must cause requisitions to be issued for these accused either through the "specially arranged matters" referred to by the Chief Justice or for dates after 17 April 2020 – not making any further detention order in such matters.
- Magistrates MUST only deal with bail applications and first appearances no trials are to proceed unless falling under the "specially arranged matters" provision.
- Bail applications should be given preference.
- Matters on the roll where accused persons are **not in custody** must be postponed to dates from May 2020 onwards.
- Magistrates should be directed to apply the provisions of Section 60 (2B)(a) in holding a separate enquiry as to an accused's ability to pay bail and consider release on warning if bail cannot be afforded (sub 13(b) - 2B (B)(i) Act 51/1977
- For accused persons in custody one family member can be allowed into the court.
- If accused persons on bail do not arrive during the lockdown period as far as possible consider holding over warrants issued and final bail forfeiture orders to dates after the lockdown period. This shall apply also to accused on warning.

FAMILY COURTS:

No children will be permitted into the court building.

All matters will be attended to in a courtroom with the exception of the Children's Court

Clerks must be arranged.

CHILDREN

- Extensions of foster care orders –Social workers should submit affidavits as to the well-being of the children. In certain instances the extension may be granted for a limited period and the full enquiry will be conducted after the Shutdown.
- Removals of children are urgent matters.
- Access matters will be postponed to May 2020.
- No cases will be struck off / removed from the roll – due to absenteeism.

ESTATES

- All matters will be postponed.
- No cases will be struck off / removed from the roll – due to absenteeism.

MAINTENANCE

- Clerks with the assistance of Magistrates will endeavour to contact parties; or each day remand all matters to May 2020 onwards.
- No cases will be struck off / removed from the roll due to absenteeism.
- No warrants of arrest will be issued.
- Matters will be remanded in absentia for subpoenas to be issued unless parties were contacted.

DOMESTIC VIOLENCE

- Clerks with will endeavour to call parties in order to postpone matters.
- No cases will be struck off / removed from the roll due to absenteeism.
- No warrants of arrest will be issued.
- Matters will be remanded in absentia unless parties were contacted.
- All hearings will be postponed to May 2020.

CRIMINAL

- All criminal matters will be dealt with by the criminal courts.

CIVIL COURTS

- A magistrate will be available every day to deal with URGENT matters.
- All civil matters:
    - Trials
    - Debt Reviews
    - Section 65's
    - Motion Court
    - Equality
    - Pre-trails

    will be removed from the roll.

- No party will be required to appear at court.
- From the 17 April 2020 the matters may be re-enrolled.
- Trials that have been certified as "Trial Ready" do not have to be certified again before a new trial date is allocated.

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CHIEF MAGISTRATE

JOHANNESBURG